

**RESOLUTION OF CONSENSUS  
OF THE  
SANTA CLARA VALLEY WATER RESOURCES PROTECTION  
COLLABORATIVE**

**DOCUMENTING WORK PRODUCTS FROM PHASE III OF ITS WORK AND  
DESCRIBING PROCEDURES FOR APPLYING THE GUIDELINES AND  
STANDARDS FOR LAND USE NEAR STREAMS**

**WHEREAS**, the Santa Clara Valley Water District ("SCVWD"), along with staff representatives of the County of Santa Clara ("County"), the Cities in Santa Clara County ("City, Cities"), the Guadalupe-Coyote Resource Conservation District ("GCRCDD"), the San Francisco Bay Regional Water Quality Control Board, various business and development interests, environmental, agricultural and community interests, and a representative of property owners' interests have formed and are members of the Santa Clara Valley Water Resources Protection Collaborative ("Collaborative"); and,

**WHEREAS**, all Collaborative members share the goals of water and watershed resource protection, including flood management, drinking water quality and quantity, surface and groundwater quality and quantity, habitat protection and enhancement; and,

**WHEREAS**, the Collaborative has worked to fulfill these goals by participating in the development of several written work products, which describe the guidelines, standards and procedures to apply to land use activities near streams and on streamside properties, to protect and enhance stream and streamside resources.

**NOW, THEREFORE** be it resolved that this RESOLUTION OF CONSENSUS is set forth for the approval of Collaborative members and includes the following final ratified or accepted work products.

**Collaborative Phase III Work Products**

1. Proposed Implementing Tools for the Guidelines and Standards for Land Use Near Streams, including:
  - a. Streamside Resource Protection Questions
  - b. Guide to Resource Agency Referrals for Streamside Development

- c. Streamside Resource Protection Questions for Single Family Units
- d. Information to be Included on Plans for Streamside Development
- e. Construction-related Permit Conditions for Streamside Resource Protection
- f. Decision Tree/Flow Chart for the Use of the Proposed Guidelines and Standards for Land Use Near Streams and related Proposed Implementing Tools

2. Proposed Guidelines and Standards for Land Use Near Streams, including:

- a. Preamble for the Guidelines and Standards for Land Use Near Streams
- b. Proposed Guidelines and Standards for Land Use Near Streams
- c. Slope Stability Requirements for Single-Family Units
- d. Design Guide for the Proposed Guidelines and Standards for Land Use Near Streams
- e. Model Enhanced Practices for Land Use Near Streams
- f. Proposed Incentive-based Program for Enhanced Practices
- g. Model Best Management Practices for Single Family Units
- h. Glossary of Key Terms
- i. User Manual for Guidelines and Standards for Land Use Near Streams

3. Workplan for Outreach for the Proposed Guidelines and Standards for Land Use Near Streams

4. Adaptive Management Process for the Guidelines and Standards for Land Use Near Streams

5. Early Consultation Between Water SCVWD and Local Permitting Agencies

- a. Framework for Early Consultation
- b. Summary of Recent and Planned Early Consultation Activities

6. Initial Work Plan for the SCVWD Comprehensive Plan

7. Workplan for the Water Resources Protection Collaborative for the Period September 2005-February 2007

### **Relationships Between SCVWD and Cities/County**

**NOW, THEREFORE** be it further resolved that:

- 1. Collaborative members will bring, in the manner appropriate for each jurisdiction, the Proposed Guidelines and Standards for Land Use Near Streams and related Proposed Implementing Tools to the governing bodies of

each respective jurisdiction for their consideration and begin to determine how best to integrate them into existing local agency permit/regulatory processes.

2. Each City and the County ("Cities/county") will then determine which Permitting Option (see Permitting Options 1-3 on pages 5-6) is appropriate and necessary to allow them to apply the Proposed Guidelines and Standards for Land Use Near Streams and related Proposed Implementing Tools.
3. Each City and the County will notify the SCVWD, and provide appropriate documentation (e.g. letter, resolution, description of actions taken) setting forth the manner in which each agency will apply the Proposed Guidelines and Standards for Land Use Near Streams and related Proposed Implementing Tools, as appropriate and necessary (e.g. resolution, new ordinance, revision of existing regulations, new administrative procedures, etc.), including the Permitting Option it has chosen. These notifications and related documentation will be provided to the SCVWD by a date that allows the Cities/County to fully apply the Proposed Guidelines and Standards for Land Use Near Streams and related Proposed Implementing Tools no later than February 28, 2007.
4. The SCVWD will review the documentation from each City and the County related to how each jurisdiction will apply the Proposed Guidelines and Standards for Land Use Near Streams and related Proposed Implementing Tools. The SCVWD will then provide a letter acknowledging and accepting each notification received, including the Permitting Option chosen. Once a City and/or the County has received a written acknowledgement from the SCVWD, including acceptance of the Permitting Option selected by the local jurisdiction, the transfer of permit authority from the SCVWD to the local jurisdiction will commence.

#### **New Ordinance to Replace SCVWD Ordinance 83-2 and Staged Transfer of Permit Authority**

SCVWD staff will bring a replacement to its Ordinance 83-2 to its Board for consideration by February 28, 2006. The new ordinance will allow for the implementation of the Proposed Guidelines and Standards for Land Use Near Streams and related Proposed Implementing Tools and will allow for the application of Permitting Options 1, 2, and 3 as noted below. Until such time that a City or the County elects to take the necessary action to apply the Proposed Guidelines and Standards for Land Use Near Streams and related Proposed Implementing Tools, it will continue to refer land use activities, consistent with Ordinance 83-2, to the SCVWD. If a City or the County takes the necessary action needed to apply the Proposed Guidelines and Standards for Land Use

Near Streams and Proposed Implementing Tools, permits on parcels adjacent to streams will then be administered by each City and the County.

If a City or the County chooses not to take action to apply the Proposed Guidelines and Standards for Land Use Near Streams and Proposed Implementing Tools, the SCVWD will continue to administer permits on streamside parcels for that jurisdiction.

Possible permitting arrangements include:

#### **Permitting Option 1: SCVWD Retains Permit Authority**

A City or the County chooses not to apply the Proposed Guidelines and Standards for Land Use Near Streams through its local permitting process. SCVWD adopts a new ordinance to replace Ordinance 83-2, which implements the Guidelines and Standards for Land Use Near Streams for parcels adjacent to streams and in-channel modification for SCVWD jurisdictional streams. The City or County continues to refer projects, consistent with the new SCVWD Ordinance that replaces Ordinance 83-2, to the SCVWD for permitting by SCVWD.

#### **Permitting Option 2: New Permitting Relationship**

A City or the County chooses to apply, in the manner appropriate to each jurisdiction, the Guidelines and Standards for Land Use Near Streams and related Proposed Implementing Tools, by issuing permits for all development related to all portions of streamside parcels which are subject to local permitting, including each jurisdictions capital improvement projects. SCVWD continues to permit activities on channels that are on land under SCVWD ownership or easement.

#### **Permitting Option 3: Customized Negotiations**

The SCVWD and a City or the County negotiates and applies a customized permitting arrangement. Customized options may include:

- a. Requests for SCVWD to permit and inspect streams not in SCVWD ownership or easement.
- b. Requests for SCVWD to permit and inspect streams beyond current SCVWD jurisdiction.
- c. Cities/County request more technical services from the SCVWD than are currently provided.

### Ability to Change Permit Options

After a City or the County has initially chosen a Permitting Option from Permitting Options 1-3 above, it may notify the SCVWD that it wishes to change the Permitting Option it has chosen to administer, using the same notification procedure described in paragraph #3 of the section titled Relationships Between SCVWD and Cities/County on page 3 of this Resolution. The SCVWD will then acknowledge this selection of a new Permitting Option using the procedure described in paragraph #4 of this same section, as shown on page 4 of this Resolution.

### **Interim Actions and Responsibilities**

**NOW, THEREFORE** be it further resolved, that during the next 18 months or until each City and the County starts to apply the Proposed Guidelines and Standards for Land Use Near Streams and Proposed Implementing Tools to its local permit process, as described in paragraphs 1-4 in the section of this Resolution titled "Relationships Between SCVWD and Cities/County", **each City and the County** will work in good faith to:

- a. Continue referrals of land use activities to SCVWD for streamside parcels along SCVWD jurisdictional streams;
- b. To the extent practicable, use the Proposed Implementing Tools for the Guidelines and Standards for Land Use Near Streams;
- c. To the extent practicable, provide information to the public describing as applied to proposed development or land use modifications to parcels adjacent to streams;
- d. To the extent practicable, incorporate the Proposed Guidelines and Standards into the design of public projects in and adjacent to streams;
- e. Participate in the Early Consultation process, as appropriate.

**NOW, THEREFORE** be it further resolved, that during the next 18 months or until each City and the County starts to apply the Proposed Guidelines and Standards for Land Use Near Streams and Proposed Implementing Tools to its local permit process, as described in paragraphs 1-4 in the section of this Resolution titled "Relationships Between SCVWD and Cities/County", **SCVWD** will:

- a. Continue to accept referrals for land use permits inside and beyond SCVWD right of way (R/W) areas and issue permits outside R/W if and until a permitting option is applied by each local permitting agency;
- b. Use the Proposed Guidelines and Standards for Land Use Near Streams as a basis for comments and permit issuance for streamside parcels;

- c. Participate in an Early Consultation process, including:
  - i. Assigning designated staff liaison(s) to local jurisdictions, as appropriate;
  - ii. To the extent practicable, streamlining of permit issuance referrals subject to Early Consultation accompanied by assurance from the local permitting agency that the site plan incorporates the Proposed Guidelines and Standards for Land Use Near Streams.

### **Ongoing Collaborative Actions and Responsibilities**

**NOW, THEREFORE** be it further resolved, that the **Cities and County** will continue to participate as members of the Water Resources Protection Collaborative to:

- i. Participate in ongoing assessment and improvement of the Guidelines and Standards for Land Use Near Streams and Proposed Implementing Tools through the Adaptive Management Process;
- ii. Support Collaborative efforts to facilitate application of the Proposed Guidelines and Standards for Land Use Near Streams;
- iii. Participate in the training of staff in the use of the Proposed Guidelines and Standards for Land Use Near Streams and related Proposed Implementing Tools;
- iv. Participate in the coordination of capital projects near streams;
- v. Identify and discuss emerging issues of common concern;
- vi. Participate in the development of the SCVWD's Comprehensive Plan;
- vii. Provide input to SCVWD as it drafts a new ordinance to replace Ordinance 83-2;
- viii. Participate in discussions with the SCVWD and Non-Governmental Organizations (NGO's) as part of the Adaptive Management Process, focusing on the health and stewardship of the County's streams, including review of information on the health of the streams, to be provided periodically by the SCVWD;
- ix. Participate in the further development of Enhanced Practices and a related incentive-based program to support their implementation;
- x. Participate in the development and dissemination of educational materials related to the Guidelines and Standards for Land Use Near Streams;
- xi. Participate in development and implementation of outreach to streamside property owners, developers and other groups;
- xii. Work with SCVWD, NGO's and others to update the Guidelines and Standards, Users Manual and Collaborative website.

**NOW, THEREFORE** be it further resolved, that the **SCVWD** will provide staff and related resources to support and facilitate the Water Resources Protection Collaborative to:

- i. Participate in ongoing assessment and improvement of the Guidelines and Standards for Land Use Near Streams and Implementing Tools through the Adaptive Management Process;
- ii. Support Collaborative efforts to facilitate application of the Proposed Guidelines and Standards for Land Use Near Streams;
- iii. Develop and carry out training of staff from SCVWD, Cities/county and community organizations in the use of the Proposed Guidelines and Standards for Land Use Near Streams and related Proposed Implementing Tools;
- iv. Participate in the coordination of capital projects near streams;
- v. Identify and discuss emerging issues of common concern;
- vi. Lead the development of the SCVWD's Comprehensive Plan, anticipated to be completed by February 2007.
- vii. Participate in discussions, as part of the Adaptive Management Process, focusing on the health and stewardship of the County's streams, including review of information on the health of the streams, to be provided periodically by the SCVWD;
- viii. Participate in the further development of Enhanced Practices and a related incentive-based program to support their implementation;
- ix. Support the development and dissemination of educational materials related to the Guidelines and Standards for Land Use Near Streams;
- x. Participate in development and implementation of outreach to streamside property owners, developers and other groups, as needed;
- xi. Work with cities, County, NGO's and others to update the Guidelines and Standards, Users Manual and Collaborative website.

**NOW, THEREFORE** be it further resolved, that the **other governmental, non-governmental and community-based organizations** that are members of the Collaborative will continue to participate, to the extent practicable, in the continuing Collaborative organization to:

- i. Provide input into the ongoing assessment and improvement of the Guidelines and Standards for Land Use Near Streams and Proposed Implementing Tools through the Adaptive Management Process;

- ii. Support Collaborative efforts to facilitate application of the Proposed Guidelines and Standards for Land Use Near Streams;
- iii. Participate in the training of staff in the use of the Proposed Guidelines and Standards for Land Use Near Streams and related Proposed Implementing Tools;
- iv. Support sharing information for capital projects near streams;
- v. Identify and discuss emerging issues of common concern;
- vi. Participate in the development of the SCVWD's Comprehensive Plan;
- vii. Provide input to SCVWD as it drafts a new ordinance to replace Ordinance 83-2;
- viii. Participate in the Adaptive Management Process, focusing on the health and stewardship of the County's streams, including review of information on the health of the streams, to be provided periodically by the SCVWD;
- ix. Participate in the further development of Enhanced Practices and a related incentive-based program to support their implementation;
- x. Participate in the development and dissemination of educational materials related to the Guidelines and Standards for Land Use Near Streams;
- xi. Participate in development and implementation of outreach to streamside property owners, developers and other groups, as needed;
- xii. Work with SCVWD, Cities/County and others to update the Guidelines and Standards, Users Manual and Collaborative website.

RATIFIED this 11th day of August, 2005, as indicated by the signatures on on the following pages: